

<b>Table of contents</b>	<b>Page</b>
General .....	5
Definitions .....	5
Domicile .....	5
Permanent place of abode .....	6
Resident .....	7
Filing requirements for New York State residents .....	8
New York City resident tax .....	10
Yonkers resident income tax surcharge .....	10
Yonkers nonresident earnings tax .....	10
Part-year residents of New York City and Yonkers .....	11
Filing requirements for New York State part-year residents .....	11
Which form to file .....	11
Form IT-150, <i>Resident Income Tax Return (short form)</i> .....	11
Form IT-201, <i>Resident Income Tax Return (long form)</i> .....	12
Filing status .....	12
Standard deduction or itemized deductions .....	13
Residents working outside New York State .....	14
Sales or use tax .....	15
When to file .....	18
Extension of time to file .....	18
Electronic tax filing .....	19
Electronic signatures .....	21
Paying by credit card .....	21
Electronic funds withdrawal .....	22
Direct deposit of refunds .....	22
Collection of debts from your refund .....	22
Disclaiming of spouse's debt .....	23
Innocent spouse relief .....	23
Interest charges .....	24
Penalties .....	25
Late filing penalty .....	25
Late payment penalty .....	25
Tax figured incorrectly .....	25
Underwithholding and underpayment of estimated tax .....	25
Negligence penalty .....	26
Fraudulent returns .....	26
Frivolous returns .....	26

**General**

If you were a New York State resident and received income during the tax year, you may be required to file a New York State income tax return. Even if you are not considered a resident of New York State for other purposes, you may be required to file a New York State resident income tax return. (see *Filing requirements for New York State residents* on page 8 of this publication). To determine whether or not you are considered a New York State resident for income tax purposes, you must consider where your *domicile* was, and where you maintained a permanent place of abode during the tax year.

Individual taxpayers may also report the amount of New York State and local sales and use taxes that they owe, if any, on their personal income tax return. For information on filing and paying sales and use taxes on your personal income tax return, see pages 17 through 19 of this publication.

**Definitions**

The following definitions are applicable in determining whether or not you are a New York State resident for income tax purposes.

**Domicile**

Your *domicile* is the place you intend to have as your permanent home. Your *domicile* is, in effect, where your permanent home is located. It is the place you intend to return to after being away (as on vacation abroad, business assignments, educational leave, or military assignment).

**You can have only one *domicile*.** Your New York *domicile* does not change until you can demonstrate that you have abandoned your New York *domicile* and established a new permanent *domicile* outside New York State.

A change of *domicile* must be *clear and convincing*. Easily controlled factors such as where you vote, where your driver's license and registration are issued, or where your will is located, are not the primary factors in establishing *domicile*. To determine whether you have, in fact, changed your *domicile*, you should compare:

**Publication 80 (11/05)**

- the size, value, and nature of use of your first residence to the size, value, and nature of use of your newly acquired residence;
- your employment and/or business connections in both locations;
- the amount of time spent in both locations;
- the physical location of items that have significant sentimental value to you in both locations; and
- your close family ties in both locations.

A change of domicile is *clear and convincing* only when your primary ties are clearly **greater** in the new location. When weighing your primary ties, keep in mind that some may weigh more heavily than others, depending on your overall lifestyle. If required by the Tax Department, it is the taxpayer's responsibility to produce documentation showing the necessary intention to effect a change of domicile.

If you move to a new location but intend to stay there only for a limited amount of time (no matter how long), your domicile does not change.

If your domicile is New York State and you go to a foreign country because of a business assignment by your employer, or for study, research, or any other purpose, your domicile does not change unless you show that you definitely do not intend to return to New York State.

**Permanent place of abode**

A *permanent place of abode* is a residence (a building or structure where a person can live) that you permanently maintain, whether you own it or not, and usually includes a residence your husband or wife owns or leases. A place of abode is not permanent if you maintain it only during a temporary or limited period of time for a particular purpose.

## Publication 80 (11/05)

**Resident**

You are a New York State resident for income tax purposes if:

- Your domicile is not New York State but you maintain a permanent place of abode in New York State and spend 184 days or more in New York State during the tax year. (Any part of a day is a day for this purpose.) However, if you are a member of the armed forces, and your domicile is not New York State, you are not a resident under this definition.

or
- Your domicile is New York State. However, even if your domicile is New York State, you are not a resident if you meet **all three** of the conditions in either Group A or Group B as follows:

**Group A**

- (1) You did not maintain any permanent place of abode in New York State during the tax year; and
- (2) you maintained a permanent place of abode outside New York State during the entire tax year; and
- (3) you spent *30 days or less* in New York State during the tax year.

**Group B**

- (1) You were in a foreign country for at least 450 days during any period of 548 consecutive days; and
- (2) you spent *90 days or less* in New York State during this 548-day period, and your spouse (unless legally separated) or minor children spent *90 days or less* in New York State during this 548-day period in a permanent place of abode maintained by you; and

Publication 80 (11/05)

(3) during the nonresident portion of the tax year in which the 548-day period begins, and during the nonresident portion of the tax year in which the 548-day period ends, you were present in New York State for no more than the number of days which bears the same ratio to 90 as the number of days in such portion of the tax year bears to 548. The following formula illustrates this condition:

<b>Number of days in the <u>nonresident portion</u></b>	<b>548</b>	<b>Maximum days X 90 = allowed in New York State</b>
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### **Filing requirements for New York State residents**

You must file a New York State resident return if you meet any of the following conditions:

- You have to file a federal return.
- You did not have to file a federal return but:

<b>your federal filing status would have been:</b>	<b>and you had federal adjusted gross income (plus New York additions*) of more than:</b>
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single, and you can be claimed as a dependent on another taxpayer's federal return .....	\$3,000
single, and you cannot be claimed as a dependent on another taxpayer's federal return <b>or</b>	
married filing joint return <b>or</b>	
married filing separate return <b>or</b>	
head of household <b>or</b> qualifying widow(er).....	\$4,000

## Publication 80 (11/05)

\* (New York additions are explained in the instructions for Forms IT-150 and IT-201; see the federal instructions to find your filing status and figure your federal adjusted gross income.)

- You want to claim a refund of any New York State, New York City or Yonkers income taxes withheld from your pay.
- You want to claim a refund of any of the following New York State, New York City, or Yonkers credits:
  - New York State earned income credit;
  - New York City earned income credit;
  - Child and dependent care credit;
  - College tuition credit;
  - Farmers' school tax credit;
  - Nursing home assessment credit;
  - Investment credit for new businesses;
  - Brownfield credits;
  - Financial services industry investment tax credit for new businesses;
  - Empire Zone (EZ) investment tax credit and EZ employment incentive credit for new businesses;
  - Financial services industry EZ investment tax credit and EZ employment incentive credit for new businesses;
  - EZ wage tax credit for new businesses;
  - Zone equivalent area (ZEA) wage tax credit for new businesses;

## Publication 80 (11/05)

- Qualified emerging technology company (QETC) employment credit for new businesses;
- QETC facilities, operations and training credit;
- Industrial or manufacturing business (IMB) credit for energy taxes;
- Qualified empire zone enterprise (QEZE) credit for real property taxes;
- Empire State film production credit;
- Special additional mortgage recording tax credit; or
- Claim of right credit (New York State, New York City, and Yonkers).
- You are subject to the minimum income tax.
- You are subject to the separate tax on lump-sum distributions.

**New York City resident tax**

If you were a resident of New York City for the tax year and you have to file a New York State return, report your New York City income tax on your state return.

**Yonkers resident income tax surcharge**

If you were a resident of Yonkers for the tax year and you have to file a New York State return, report your Yonkers resident income tax surcharge on your state return.

**Yonkers nonresident earnings tax**

If you were a New York State resident and were not a Yonkers resident, but earned wages or carried on a trade or business in Yonkers, you are subject to the Yonkers nonresident earnings tax. You must compute your Yonkers nonresident earnings tax on Form Y-203, *Yonkers Nonresident Earnings Tax Return*. If you are married, you cannot file jointly on Form Y-203. If you and your spouse each have separate taxable Yonkers earnings, you must each complete a separate Form Y-203 and attach it to your Form IT-150 or IT-201.

**Publication 80 (11/05)****Part-year residents of  
New York City and  
Yonkers**

If you changed your New York City or Yonkers resident status during the year, you must complete Form IT-360.1, *Change of City Resident Status*, and pay New York City resident tax or Yonkers resident income tax surcharge for the part of the year that you lived in New York City or Yonkers.

**Filing requirements  
for New York State  
part-year residents**

If you were a New York State resident for only part of the year, you are a New York State part-year resident. Part-year residents must file Form IT-203, *Nonresident and Part-year Resident Income Tax Return*. You are subject to New York State tax on income you received from New York State sources while you were a nonresident, and on all income you received while you were a New York State resident. For more information on New York State part-year residents, see Publication 88, *General Tax Information for New York State Nonresidents and Part-Year Residents*.

**Which form to file**

If you were a New York State resident for the tax year, you must use either New York State income tax return Form IT-150 or Form IT-201. A brief description of each form follows. For more information on who is required to file, see the *Who must file/which form to file?* section in the instructions for these forms.

**Form IT-150, Resident  
Income Tax Return  
(short form)**

New short Form IT-150 was developed to allow taxpayers who file federal Form 1040A or Form 1040EZ (and certain taxpayers who file federal Form 1040) to file a simple two-page New York State return. Taxpayers using Form IT-150 can take advantage of the most commonly used credits, while avoiding the complexities of the long Form IT-201.

You may use Form IT-150 if:

- You were a New York State resident for the entire year.
- Your federal adjusted gross income for the year was \$900,000 or less.
- You filed federal Form 1040EZ or 1040A (or could have, except your federal taxable income was over \$100,000).

**Publication 80 (11/05)**

- You were **not** a part-year resident of New York City or Yonkers (however, you may report nonresident earnings tax for Yonkers on Form IT-150).

In addition to the real property tax credit, you may also claim the college tuition credit, the New York City school tax credit, the child and dependent care credit, the New York State earned income credit, the city of New York earned income credit, and the household credit on this form.

**Form IT-201, Resident Income Tax Return (long form)**

If you do not qualify to file Form IT-150, you must file Form IT-201. Form IT-201 has been reformatted as a four-page return, replacing the old two-page version.

If you are claiming any credits other than those claimed directly on Form IT-201 (i.e., New York State household credit, resident credit, New York City household credit, New York State child and dependent care credit, New York State earned income credit, real property tax credit, college tuition credit, New York City school tax credit, and New York City earned income credit) or you are subject to other New York State or New York City taxes, you must also complete Form IT-201-ATT, *Other Tax Credits and Taxes*, and attach it to your Form IT-201.

**Filing status**

One of the most important items on your New York State income tax return is your **filing status**. This classification helps determine whether you have to file a return, and, if you claim the New York standard deduction, determines which standard deduction amount you use. Your filing status also helps determine your tax.

In nearly all cases, you must use the same filing status that you used on your federal return. If you did not have to file a federal return, use the filing status you would have used for federal income tax purposes.

The only exceptions to this rule apply to married individuals who file a joint federal return and: